

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SEAN COOPER

VS.

WALMART STORES TEXAS, LLC

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CIVIL ACTION NO.

DEFENDANT DEMANDS A JURY

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

COMES NOW, Defendant WAL-MART STORES TEXAS, LLC, (herein after “Walmart”), and files this Notice of Removal, pursuant to 28 U.S.C. §§ 1441 and 1446, removing the above-captioned case from the County Court at Law Number 1, Harris County, Texas, to the United States District Court for the Southern District of Texas.

**I.
RELEVANT FACTS**

1. Plaintiff Sean Cooper (hereinafter “Plaintiff”) claims that on or about January 13, 2021, he was at Walmart Store #2993 located at 345 Hwy 6, Sugar Land, Texas, 77478 when he slipped and fell. *See* Exhibit A, Plaintiff’s Original Petition, at ¶7.1.

2. Plaintiff alleges that he is a resident of Texas. *See id.* at ¶2.1. Plaintiff expressly seeks \$250,000 or less in damages. *See id.* at ¶3.1.

**II.
THE PARTIES**

3. As noted, Plaintiff pleaded that he is a resident of Harris County, Texas. *See id.* at ¶2.1. As such, Plaintiff is a citizen of the State of Texas.

4. Defendant Wal-Mart Stores Texas, LLC is now, and was at the time of filing of this action, a Delaware Limited Liability Company with its principal place of business in Arkansas. The citizenship of an LLC is the same as the citizenship of all its members. *Harvey v. Grey Wolf Drilling, Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008). Wal-Mart Real Estate Business Trust is the sole member of Wal-Mart Stores Texas, LLC.

III. BASIS FOR REMOVAL

5. Walmart removes this case to federal court because there is complete diversity of citizenship between the parties and the amount in controversy is greater than \$75,000, exclusive of interest and costs. *See* 28 U.S.C. § 1332(a).

A. There is complete diversity of citizenship between Plaintiff and the Defendants.

6. There is complete diversity of citizenship, *see* 28 U.S.C. §§ 1332, 1441, between the Texas Plaintiff and Walmart. As previously noted, Walmart is a citizen of Delaware and Arkansas.

B. The amount in controversy requirement is met.

7. A removing party may establish that the amount in controversy exceeds \$75,000 by showing the non-removing party explicitly sought damages over \$75,000. *See Gebbia v. Wal-Mart Stores, Inc.*, 233 F.3d 880, 881 (5th Cir. 2000). Here, Plaintiff has expressly plead that he seeks monetary damages of \$250,000 or less. *See* Exhibit A at ¶3.1. Thus, Plaintiff explicitly seeks an amount greater than \$75,000.

C. This removal is timely, and venue is proper.

8. This Notice of Removal is being filed within 30 days of service of Plaintiff's lawsuit on Walmart, and within one year of the commencement of this action. It is therefore timely.

Venue is proper in this District under 28 U.S.C. § 1441(a) because the state court where the action is pending is in this District.

D. Procedural requirements for removal are satisfied

9. Upon filing of this Notice of Removal of the cause, Walmart gave written notice of the filing to Plaintiff and his counsel as required by law. A copy of this Notice is also being filed with the Clerk of the County Court at Law Number 1 of Harris County, Texas, where this cause was originally filed. A copy of all processes, pleadings, and orders has been filed separately with this Court pursuant to 28 U.S.C. § 1446(a).

**IV.
CONCLUSION AND PRAYER**

10. Based on the foregoing, Walmart has established that the amount in controversy exceeds \$75,000.00 and that diversity of citizenship exists between the remaining named parties in this case. Therefore, removal is proper in this case.

Respectfully submitted,

BUSH & RAMIREZ, PLLC

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**ATTORNEYS FOR DEFENDANT
WAL-MART STORES TEXAS, LLC**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing instrument has been sent to all interested counsel of record in accordance with the TEXAS RULES OF CIVIL PROCEDURE on August 4, 2022.

Kenneth R. Baird
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/s/ John A. Ramirez
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